

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**ELGIN R. ROBINSON, JR.,**

**Petitioner,**

**v.**

**CASE NO. 19-3071-SAC**

**ROGER WERHOLTZ,**

**Respondent.**

**MEMORANDUM AND ORDER**

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2254 by a prisoner in state custody. Petitioner proceeds pro se, and the Court grants leave to proceed in forma pauperis.

Because the petition shows that petitioner has a postconviction action pending in state court, the Court will direct him to provide a status report on that matter.

Petitioner also moves for the appointment of counsel. An applicant for habeas corpus relief has no constitutional right to the appointment of counsel. *See Swazo v. Wyo. Dept. of Corr.*, 23 F.3d 332, 333 (10<sup>th</sup> Cir. 1994) (“[T]here is no constitutional right to counsel beyond the appeal of a criminal conviction, and ... generally appointment of counsel in a § 2254 proceeding is left to the court’s discretion.”). Rather, the court may appoint counsel when “the interests of justice so require” for a petitioner who is financially eligible. *See* 18 U.S.C. § 3006A(1)(2)(b).

The Court has considered the record and declines to appoint counsel at this time. Petitioner appears to be capable of presenting his claims clearly, and the issues do not appear to be unusually complex.

IT IS, THEREFORE, BY THE COURT ORDERED petitioner's motion for leave to proceed in forma pauperis (Doc. 2) is granted.

IT IS FURTHER ORDERED petitioner's motion to appoint counsel (Doc. 3) is denied.

IT IS FURTHER ORDERED petitioner is granted to and including **November 14, 2019**, to provide a status report on his state court action.

**IT IS SO ORDERED.**

DATED: This 30th day of October, 2019, at Topeka, Kansas.

S/ Sam A. Crow  
SAM A. CROW  
U.S. Senior District Judge